

Dated: April 18, 1980

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

IN THE MATTER OF )  
 )  
GENERAL ELECTRIC COMPANY )  
 ) Docket No. 70-1308  
 )  
(GE Morris Operation )  
Spent Fuel Storage )  
Facility) )



ANSWER OF GENERAL ELECTRIC COMPANY  
TO PETITION FOR LEAVE  
TO INTERVENE OF MS. ELAINE WALSH

Pursuant to 10 C.F.R. § 2.714 (c), GENERAL ELECTRIC COMPANY ("General Electric") files this Answer to the Petition For Leave to Intervene of ELAINE WALSH ("Walsh") in the above-captioned matter, which Petition was docketed on April 3, 1980.

General Electric vigorously opposes Walsh's Petition and for the reasons set forth below believes that leave should not be granted her to intervene at this late date. Walsh's Petition is so nontimely that it would disrupt and needlessly delay the proceeding.

On April 24, 1979, the Nuclear Regulatory Commission published a notice in the Federal Register (44 Fed. Reg. 24354), setting the last date for the filing of a petition for leave to intervene into this proceeding as May 25, 1979. On February 7, 1980, more than 8 months after that date, Ms. Walsh wrote to this Atomic Safety and Licensing Board for the first time and requested permission, pursuant to the applicable regulation, to

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make a limited appearance at the February 29, 1980 prehearing conference. She did not seek leave to intervene at that time. At that prehearing conference, Ms. Walsh did not make a limited appearance or take any other action of record, although from the wording of her Petition she apparently was present. Now, some 10 months after the last date for the filing of a petition for leave to intervene, Walsh for the first time seeks to intervene. Clearly, no justification for her tardiness exists.

Section 2.714 (a) (1) of 10 C.F.R., Part 2, sets out five factors to be balanced by this Board in passing upon this nontimely Petition. <sup>\*/</sup> It is well recognized that "[l]ate petitioners have a substantial burden in justifying their tardiness." In the Matter of Nuclear Fuel Services, Inc. (West Valley Reprocessing Plant), 1 N.R.C. 273, 275 (1975). Of course, "the burden of justifying intervention is considerably greater where the latecomer has no good excuse" for her tardiness. Id. Here, all five factors, contained in § 2.714 (a) (1), dictate that this Petition should be denied.

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<sup>\*/</sup> These factors are in addition to those factors, otherwise applicable, contained in 10 C.F.R. § 2.714 (d). Since the factors enumerated in § 2.714 (a) (1) clearly demonstrate that this nontimely Petition should not be allowed, the factors enumerated in 10 C.F.R. § 2.714 (d) are not addressed in this Answer.

1. Walsh has failed to allege any "good cause" for her delay. She simply cites confusion and that she does not have an attorney as grounds for her delay. Clearly, neither constitutes good cause for her failure either to contact this Board until February 7, 1980, when she first wrote to it concerning this proceeding, or to seek leave to intervene until March 19, 1980.

2. Walsh fails to state any reason why her interests will not be otherwise protected. Indeed, two intervenors have already been admitted to the proceeding. Both intervenors have presented contentions that the proximity of the Morris Operation to Dresden should be an issue before the Board. Illinois Second Set of Amended Contentions, ¶ 1; Re-Amended Contentions of Rorem et al., ¶ 3. Such a contention appears to be Walsh's only assertion. Since Dresden is closer to Morris than any other proposed nuclear plant mentioned by Walsh, any proximity issue concerning these proposed plants would be disposed of by consideration of the alleged proximity issue regarding Dresden. <sup>\*/</sup> No adequate basis is provided for any other portion of Walsh's only contention.

3. There is no reason to believe Walsh will assist in developing a sound record in this matter. She has pointed to nothing she will add that is not already before the Board nor has she pointed to any inadequacy in the record as it is presently being developed.

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<sup>\*/</sup> General Electric takes the position that proximity, in and of itself, is an insufficient basis for any of the contentions proposed by the intervenors.

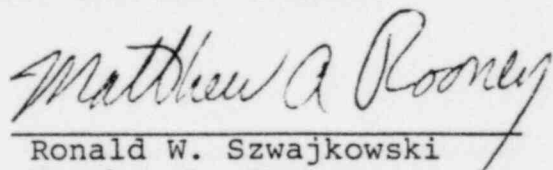
4. Since Walsh's interests appear to be identical to Rorem's, they are already being represented by an existing party.

5. Finally, and most significantly, if this Petition is granted it would unduly delay this proceeding. Two intervenors were already admitted in August, 1979. They have taken until March 19, 1980 to amend their contentions twice. General Electric and the NRC Staff have responded to these contentions. The first prehearing conference was already held in the proceeding on February 29, 1980. Discovery concerning the proceeding, to the extent it is necessary, is about to commence. It is clear that the granting of the pending Petition would delay this proceeding in order to permit a third intervenor to catch-up to the point to which other parties have proceeded. No benefit for this delay has even been alluded to by Walsh.

All appropriate factors for considerations demonstrate that the Petition should be denied and General Electric requests that this Board do so.

Respectfully submitted,

GENERAL ELECTRIC COMPANY

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF )  
 )  
GENERAL ELECTRIC COMPANY )  
 ) Docket No. 70-1308  
Consideration of Renewal of )  
Materials License No. SNW-1265 )  
Issued to GE Morris Operation )  
Fuel Storage Installation )

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of the ANSWER OF GENERAL ELECTRIC COMPANY TO PETITION FOR LEAVE TO INTERVENE OF MS. ELAINE WALSH, in the above-captioned proceeding on the following persons by causing the said copies to be deposited in the United States mail at 231 South LaSalle Street, Chicago, Illinois, in plainly addressed and sealed envelopes with proper first class postage attached before 5:00 P.M. on April 18, 1980:

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